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RULES AND AIDS TO STATUTORY CONSTRUCTION.

The determination of the meaning of a statute from its language, controlled by certain settled rules, and assisted by certain accepted aids, constitutes construction. The legislature is presumed to mean what is plainly expressed, and consequently, where a statute is in plain and unambiguous terms, there is no necessity for construction—the province of construction lies wholly within the domain of ambiguity. Where, however, the words of a statute do not make clear the meaning of the legislature, the court must resort to construction, and may go to the extent of expunging, inserting or changing the very words used by the legislature.

The object of construction is to ascertain the intent of the legislature as expressed in the words of the statute. The principle that intent is the cardinal rule of construction, though so long asserted by the courts, is misleading; for intent is more than a mere rule of construction; it is the object of construction. Intent is the law itself, determined with or without resort to the rules and aids to construction. The purpose of the courts in formulating such rules is to provide directions for finding the intent. This intent, when discovered, prevails; and the language used is to be given such meaning as will make it effective.

There are certain general rules of construction:

1. A statute is to be construed as a whole. Its clauses are not to be segregated; but every part of the statute is to be construed with reference to every other part, and every word and phrase in connection with its context, and that construction sought which gives effect to the whole of the statute—its every word.
2. A statute is to be construed with reference to statutes *in pari materia*. Where there are several similar statutes relating to the same subject, they are all to be construed together, and one part compared with another in the construction of any one of the material provisions.
3. A statute is to be construed by the natural and obvious import of its words, giving to it the ordinary grammatical construction. Ordinary words are to be taken in their popular sense, technical words in their technical sense, and commercial words in their commercial sense.

4. The rules of grammar are presumed to be known to the legislature and are to be followed in the construction of a statute, unless the legislative intent be violated, or inconvenience or absurdity result. While punctuation is no part of a statute and not controlling upon the court, it is to be followed with the above qualification. But marks of punctuation may be changed, inserted or erased. Where the words of a statute, read in the order in which placed, present no ambiguity, they will not be transposed to express what may be supposed to be the legislative intent.
5. The rule that the expression of one thing excludes others not expressed, *expressio unius est exclusio alterius*, applies to the construction of the statute.
6. Where, in a statute, particular words are used in connection with general words, the general words are restricted in meaning to objects of like kind with those specified. *Ejusdem generis* is a well known maxim of construction.
7. The rule that an instrument is to be construed against the person who caused it to be prepared is applicable. The rule has special application to legislative grants of franchises and privileges.
8. Although a statute is, if possible, to be construed to give full effect to both a special and a general intent of the legislature, yet where the two are irreconcilable, the special is to be construed to prevail over the general intent; and the provisions of a later statute are to be construed as prevailing over those of a prior statute, and subsequent provisions prevail over prior provisions in the same statute.
9. A statute is to be construed as prospective rather than retrospective; as directory when in words of permission and as mandatory when in words of command.
10. Where one legislature adopts, without a material change of phraseology, a legislative act of another jurisdiction, if, antecedent to the adoption, the act had received a settled construction in the jurisdiction from which adopted, the legislature is presumed to have adopted the construction along with the statute; and a reenacted statute is to be construed with reference to the original act and its judicial and practical construction.
11. A rule of liberal construction applies to remedial statutes. A rule of strict construction applies to penal, revenue, private, local and exemption statutes, statutes granting special privileges or creating liabilities, and statutes in deroga-

tion of the common law, common right and in derogation of sovereignty of the state.

12. A statute is to be construed to avoid unconstitutionality, extraterritoriality, violating a treaty or the international law, restraining future legislation, defeating transactions under it, binding government, and to avoid injustice, inconvenience and absurdity.

In seeking to discover the intent of the legislature, the judicial mind may seize upon everything from which aid can be derived.

There are certain intrinsic aids in the statute itself. While the title and preamble are no parts of a statute and cannot control the plain provisions of the enacting clause, they may be referred to in construction. A proviso may be referred to to aid the construction of the enacting clause. Construction may be aided by marginal references. Grammar, punctuation and collocation are aids to construction.

In the construction of a statute the court may seek help from the following extrinsic aids: The reason, purpose and object of the statute; the history and records of its enactment; the law existing at the time of its enactment; its subject matter; the state policy; common law; the laws of other states and jurisdictions; and its legislative, judicial and administrative construction.

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